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UNUMPROVIDENT CORPORATION and

UNUM LIFE INSURANCE COMPANY OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

GINGER SEITLES,

Plaintiff,

vs.

UNUM PROVIDENT, UNUM LIFE
INSURANCE COMPANY OF AMERICA;

Defendants.

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CIV. S-04-02725 FCD DAD

STIPULATION AND ORDER THEREON
TO VACATE PRETRIAL CONFERENCE,
PRETRIAL REQUIREMENTS AND TO
SET A BRIEFING SCHEDULE FOR
MOTIONS PURSUANT TO FEDERAL
RULES OF CIVIL PROCEDURE, RULE 52

1 **IT IS HEREBY REQUESTED AND STIPULATED** by the parties hereto, through
 2 their respective attorneys of record, as follows:

3 The parties hereby respectfully request that the Court vacate the Pre-Trial Conference
 4 scheduled for August 7, 2009. The parties further request that the Court waive the pretrial
 5 requirements of the local rules of this Court and FRCP 16. Finally, the parties request that the
 6 Court set a briefing schedule so that the case can be decided on cross motions pursuant to
 7 Federal Rules of Civil Procedure, Rule 52.

8 Good cause exist for the parties' request. The parties have stipulated and the Court has
 9 so ordered that this matter is governed by the Employee Retirement Income Security Act of
 10 1974. (Dkt. entry # 26). Defendant asserts that the trial of this action should be conducted with
 11 the Court's review of the administrative record supplemented by briefing and argument of
 12 counsel. The only documentary evidence to be presented is and will be in the Administrative
 13 Record. The parties, therefore, request that this matter be decided pursuant to motions for
 14 judgment under FRCP Rule 52. *See, Kearney v. Standard Ins. Co.*, 175 F.3d 1084, 1094-1095
 15 (9th Cir. 1999) (*en banc*). *Nolan v. Heald College*, 551 F.3d 1148, 1154 (9th Cir. 2009). As
 16 such, defendants respectfully request that the Court set the following briefing schedule to allow
 17 the simultaneous exchange of opening briefs, followed by the simultaneous exchange of
 18 response briefs:

19
 20 July 31, 2009 Parties to file and serve opening briefs and lodge a copy of the
 21 administrative record with the Court.

22
 23 September 1, 2009 Parties to file and serve response briefs

24
 25 September 15, 2009 Bench trial/hearing conducted by the Court's review of the
 26 administrative record, supplemented by the legal briefing and
 27 argument of counsel pursuant to FRCP, Rule 52.

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ORDER

The Pre-Trial Conference scheduled for August 7, 2009 is vacated.

The Court orders the following briefing schedule:

July 31, 2009 Parties to file and serve opening briefs and lodge a copy of the administrative record with the Court.

September 4, 2009 Parties to file and serve response briefs.

September 18, 2009 10:00 a.m. Bench trial/hearing conducted by the Court's review of the administrative record, supplemented by the legal briefing and argument of counsel pursuant to FRCP, Rule 52.

IT IS SO ORDERED.

Dated: June 10, 2009



FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE